

The unreasonable delay of the present application in the secondary review process is causing undue hardship to the Applicant because the invention is being infringed, and the Applicant cannot stop the infringement without the issued patent. Because of the hardship to the Applicant caused by this delay, the Applicant hereby petitions the Commissioner to expedite the secondary review of the application and to issue the Notice of Allowance for the application.

In the event that the Commissioner does not grant this Petition under 37 CFR 1.182, the Applicant respectfully petitions in the alternative to make the application special and advance the examination of the above-identified application because of actual infringement under 37 C.F.R. § 1.102 and M.P.E.P. 708.02(II). The Applicant submits that this Petition meets all of the requirements of 37 C.F.R. § 1.102 and M.P.E.P. 708.02(II) for a grantable petition. The Applicant notes that a petition to make the application special because of actual infringement was not previously filed because both the Examiner and Mr. Rones stated in conversations with the undersigned that they did not believe such a petition would expedite secondary review and that they also believed the secondary review would be completed before the petition would be granted.

This Petition is accompanied by the Declaration of Paul V. Morinville in regard to actual infringement. If a further showing in support of this Petition is deemed necessary, the Applicant invites the Commissioner to call the undersigned to obtain the required showing.

The Applicant hereby requests that this Petition be granted, that the application be made special, and that the Notice of Allowance for the application be mailed to the Applicant.

The Applicant points out that the references which are believed to be the most closely related to the subject matter encompassed by the claims are already of record in the patent application.

The Applicant submits herewith a credit card payment form for the fee as set forth in 37 C.F.R. § 1.17(h). If any fees are inadvertently omitted, or if any additional fees are required, or if any amounts have been overpaid, please appropriately charge or credit those fees to Deposit Account No. 50-3085 of the Law Offices of Mark L. Berrier.

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Petition to Commissioner

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REQUEST FOR PATENT FEE REFUND				
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